

04/12/12

ORDINANCE NO. 49-312

AN ORDINANCE AMENDING SECTIONS 3.91.020, 3.91.050, 3.91.070, 3.91.100, 3.91.110 AND 3.91.120, OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CULTURAL MARKETS AND THE LICENSING AND REGULATION THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 3.91.020 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Definitions. For the purpose of this chapter, the following words shall have the following meanings, unless the context otherwise requires.

(a) "Cultural Market" means an outdoor place or market area that operates upon City owned property pursuant to a lease or management agreement, and where multiple vendors gather to sell merchandise as determined by the rules and regulations of the cultural market and as designed to promote the purpose and goals of a cultural market as set forth in Section 3.91.010 herein. Products that may be sold at such a market would typically include, but are not limited to, locally grown produce, fine arts, ceramics, pottery, plants, flowers, ethnic crafts and handicrafts, blankets, toys, jewelry, clothing, original artwork, and prepared foods as approved by the City of Wichita Division of Environmental Services, including food sold from trucks, carts or other vehicles. A cultural market site will also be available for community events and cultural celebrations designed to promote the purpose and goals as set forth in Section 3.91.010.

(b) "Person" means any individual, corporation, partnership, association or other entity.

(c) "Market Operator" means the individual responsible for operating the cultural market on a day-to-day, week-to-week and/or month-to-month basis. The Market Operator is the designated person responsible for management decisions such as vendor selection and enforcement of the adopted and prescribed rules and regulations for the market. The Market Operator will be also responsible for the publicity and promotion of the market and the scheduling and of community and cultural events taking place on the market site.

(d) "Merchandise" means any artwork, agricultural produce, plants, nursery products, flowers, baked goods, handicrafts, goods, wares, food, food products, or any product of any kind that can be bought and sold.

(e) "Transient merchant", "itinerant merchant" or "itinerant vendor" shall be as defined in Chapter 3.95 of the Code of the City of Wichita, and amendments thereto.

(f) "Vendor" as used in this Chapter means any individual or such individual's employee, designee or agent who sells merchandise on the premises of a cultural market."

SECTION 2. Section 3.91.050 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

"License may include all vendors; exceptions. A cultural market license may be a blanket license which includes all participating vendors, except for the following types of vendors, producers or sellers who are required to obtain their own separate City of Wichita license as set forth in the Code of the City of Wichita:

(a) Food vendors, food processors, food establishments or temporary food establishments as defined in State Law and by Chapter 7.22 of the Code of the City of Wichita, and amendments thereto. When a licensee is applying for said license solely to participate in a city-licensed cultural market, the license fees as set forth in Chapter 7.22 shall be waived.

(b) Activities and/or operations of such a nature as to be considered an amusement ride or ride device, as required in Chapter 3.20 of the Code of the City of Wichita.

(c) Rodeo, petting zoo, or animal exhibition or show pursuant to Chapter 3.09 of the Code of the City of Wichita.”

SECTION 3. Section 3.91.070 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“License application. A cultural market operator shall obtain a license through the City Treasurer's office. A license may be issued only upon the completion of a license application that shall be on a form provided by the City Treasurer. A separate cultural market license is required for each location at which a cultural market is held or conducted. The cultural market application shall contain the following information:

- (a) Name, date of birth and contact information of the market operator and applicant;
- (b) The name and permanent address of the market operator making application, and, if the market operator is not an individual, the names and addresses of the officers of the corporation or members of the partnership, association, or other entity, as the case may be;
- (c) If the market operator is a corporation, the name and permanent address of the market operator's registered agent or office;
- (d) Proof of a current sales tax license from the State of Kansas for the market operator;
- (e) Address of the location where the market operator intends to operate the cultural market;
- (f) A copy of the lease agreement with the City of Wichita pursuant to which the cultural market is operating;

- (g) Completed information regarding any and all participating vendors as required by the lease or management agreement with the City;
- (h) The specific date(s) and times for which the right to operate the cultural market is desired;
- (i) A sketch or drawing of the proposed cultural market site showing the approximate dimensions of the area being used, the proximity to buildings, parking lots, rights-of-way or other such areas, and a description of any structure, implement, stand, display prop, vehicle or other such items used for the cultural market, including signs, banners or other attention getting devices;
- (j) A statement as to whether or not the market operator and applicant has within two years prior to the date of the application been convicted of any felony;
- (k) A copy of the rules and regulations for the operation of the market; and
- (l) A signed statement from the market operator and applicant indicating that all of the information provided is true and correct.”

SECTION 4. Section 3.91.100 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Revocation of license. (a) The Superintendent of Central Inspection may revoke any license issued under this chapter, for any of the following reasons:

- (1) Fraud, misrepresentation or false statement contained in the application for license.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on the business.
- (3) Any violation of the provisions of this chapter.

(4) Any violation of Chapter 7.41 of the City Code, pertaining to the prohibition of loud and unnecessary noise.

(5) Any violation of the provisions of the lease or management agreement with the City of Wichita.

(b) The Superintendent of Central Inspection shall notify the licensee of the revocation of his or her license in writing, setting forth the grounds for revocation, which shall be hand delivered to the licensee, or mailed to the licensee's permanent address appearing on the application. Upon five days' written notice to the person holding any license issued under the provisions of this chapter the Superintendent of Central Inspection shall have authority to revoke the license.

(c) Any person aggrieved by the revocation of a license as provided in this chapter shall have the right of appeal to the city council as set forth in Section 3.91.130.”

SECTION 5. Section 3.91.110 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Prohibited acts – market operator and vendors. It is unlawful for any cultural market operator, vendor, food service vendor, transient merchant or any grower or producer to:

(a) Conduct business or carry on activities in violation of any zoning requirements of the city, including setback requirements;

(b) Create noise in violation of Chapter 7.41 of the city code;

(c) Provide any false or misleading information in completion of any license application;

(d) Fail to provide, at the request of the purchaser or customer, a written receipt for purchases exceeding \$5.00 (five dollars) or as required by the State of Kansas;

(e) Fail to provide any customer, or other such person, her or his name, the name of the company or organization represented, the name of the product, or make any representation as to identity which is false or misleading;

(f) Fail to allow authorized law enforcement officers or other enforcement officers of the city to enter into or upon the premises of the cultural market or to otherwise interfere with any inspection of the premises or business;

(g) Fail to remove any structure, device, trash, or debris caused, created or associated with the cultural market activities that are in an outdoor area;

(h) Consume alcoholic liquor or cereal malt beverage upon market property, unless allowed by the appropriate licensing;

(i) Sell or offer for sale any beverage in glass containers;

(j) Sell, offer for sale or to be given away any live animals;

(k) Sell or offer for sale any spray string, confetti or other litter-causing material;

(l) Sell or offer for sale any goods known to the vendor to be stolen. All merchandise on the premises of a cultural market shall be subject to inspection at any time by law enforcement officers. A vendor may be required to verify that he or she is the legal owner of merchandise being sold or offered for sale.

(m) Erect or display more than two (2) temporary signs to generally advertise the cultural market, with no such sign exceeding 16 square feet in area, or for any seller and/or vendor to erect or display more than one sign or any sign greater than 10 square feet in total area. Sign permits shall not be required for signs as described above. Such signs shall not be erected more than 24 hours prior to the market's opening for sales to the public, and shall be removed within 24 hours of the markets closing for sales to the public. Streamers, pennants, search lights

and any device with flashing, blinking, rotating or moving action are prohibited from use, and no sign shall be placed upon the public right-of-way, or within the vision site triangles for public street intersections or driveways as set forth in the Sign Code (Title 24.04. of the Code of the City of Wichita);

(n) Erect or construct any structure, tent, or building greater than 200 square feet in size, unless a building permit for a larger structure, tent or building is obtained;

(o) Conduct business or carry on activities within 50 feet of any driveway entrance or access lane from a public street to an existing business;

(p) Conduct business or carry on activities within the city right-of-way;

(q) Conduct business or carry on activities between the hours of 11:00 p.m. and 6:00 a.m. Sunday through Thursday and midnight to 6:00 a.m. on Friday and Saturday.

The requirements governing location and placement of cultural markets and activities in subsections (a), (m), (n), (o) and (p) shall not be applicable to cultural markets or cultural market vendors who participate in a community event promoted by the market operator and which has been approved pursuant to the lease or management agreement with the City of Wichita or which has been approved and issued a permit by the City of Wichita's Community Event Coordinator pursuant to the ordinances of the City of Wichita.”

SECTION 6. Section 3.91.120 of the Code of the City of Wichita, Kansas is hereby created to read as follows:

“Prohibited conduct on market property. Except as part of an approved or licensed community event, it shall be unlawful for any person to:

(a) Ride upon a skateboard, roller skates, in-line skates or skate shoes upon the premises of a cultural market; or

(b) Ride upon a bicycle, unicycle or any motorized vehicle upon the premises of a cultural market, except that this prohibition shall not apply to members of the Wichita Police Department operating bicycles in the normal course of duty, nor to persons with a disability using a motorized vehicle as a means of conveyance; or

(c) Bring a pet or other animal upon the premises of a cultural market, except this prohibition shall not apply to law enforcement or public safety officers using animals in normal course of duty nor to any person with a disability using a service animal for assistance.”

SECTION 7. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 24th day of July, 2012.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law